IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

REVIEW PETITION NO.34 OF 2005
IN
INCOME TAX APPEAL NO.771 OF 2002

M/s.Navnitlal & Co. .. Petitioner.
(Org. Appellant)

V/s.

Dy. Commissioner of Income-tax
Special Range - 30 .. Respondent.
(Org. Respondent)

Mr.V.H. Patil with Ms.Asifa Khan for the petitioner.

Mr.A.S. Rao for the respondent.

CORAM : R.M. LODHA &
J.P. DEVADHAR, JJ.

DATED : 20TH MARCH, 2006.

P.C. :

Heard Mr.V.H. Patil, the learned counsel for the assessee-appellant.

2. The learned counsel for the review petitioner submits that in the memo of appeal two substantial questions of law were raised but in our order dated 11th October, 2004, we have considered only one question and the other question concerning Finance Charges for the purposes of computation of deduction under Section 80HHC was not considered. In the appeal the assessee raised the following two substantial questions of law.

1. Whether on the facts and in the circumstances of the case and in law, the Appellate Tribunal erred in holding that the CIT was right in invoking the jurisdiction u/s.263 ?

2. Whether on the facts and in the circumstances of the case and in law, the Appellate Tribunal was right in holding that the finance charges need to be included in total turnover for the purposes of computation or deductions u/s.80HHC ?

3. We considered the aforesaid two questions in the light of the findings recorded by the Tribunal. In our order dated 11th October, 2004, we reproduced the findings of the Tribunal recorded in para 6.

4. So far as the first question is concerned, the finding of the Tribunal ends with the sentence, "We, therefore, hold that in view of Explanation (c) to Sec. 263, the CIGT was competent to pass the order u/s.263".

5. In so far as second question is concerned, we recorded the finding of the Tribunal beginning with the expression, "Thus, the assessee’s own conduct shows" and ending with the sentence, "..... it is clear that CIT had valid jurisdiction to revise the order of the A.O."

6. It is thus not correct to say that the purported question of law No.2 was not adverted to by

us. We did not find any infirmity in the consideration of the matter by the Tribunal and, accordingly, dismissed the appeal.

7. The order passed by us on 11th October, 2004 cannot be said to suffer from infirmity apparent on the face of record justifying review of the said order.

8. The review petition is, accordingly, rejected.

(R.M. LODHA, J.)

(J.P. DEVADHAR, J.)